

See attachment 10pm
8/8/01

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

LEE LANDAU,
Petitioner

vs. : CIVIL ACTION NO. 1:CV-01-1025

ROBERT SHANNON,
Respondent

FILED
HARRISBURG, PA

O R D E R

MARY E. ANDREA CLERK
Per S. J. Smyser Deputy Clerk

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

On July 12, 2001, petitioner filed an appeal from orders entered in this action by Magistrate Judge Smyser on June 22, 2001. On that date Judge Smyser denied petitioner's application to proceed in forma pauperis and required him to pay a filing fee of \$5.00. The sole basis for the appeal is petitioner's contention that the Magistrate Judge has no authority in this case and that he did not consent to jurisdiction by the magistrate judge.

Petitioner's unwillingness to consent to jurisdiction by the magistrate judge does not preclude the magistrate judge from handling pre-trial proceedings. Fed. R. Civ. P. 73 provides for jurisdiction by the magistrate judge for all proceedings (including trial) where the parties consent to such. However, Federal Rule 72 cloaks the magistrate judge with jurisdiction to decide pre-trial and non-dispositive matters in cases referred by

the court to a magistrate judge. This is such a case. Local Rule LR 73.1(d) provides the authority for the assignment of civil cases to a magistrate judge for pre-trial proceedings, pursuant to the rotational assignment plan of the court.

Finding no merit in petitioner's appeal (doc. 8) the same is denied and the case is remanded to Magistrate Judge Smyser for further proceedings.



William W. Caldwell
United States District Judge

Date: August 3, 2001

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

August 3, 2001

Re: 1:01-cv-01025 Landau v. Shannon

True and correct copies of the attached were mailed by the clerk to the following:

Lee D. Landau
SCI-MAHONOV
Mahonoy State Correctional Institution
AK-7928
301 Morea Road
Frackville, PA 17931

CC:			
Judge	(<i>V</i>)	()	Pro Se Law Clerk
Magistrate Judge	(<i>V</i>)	()	INS
U.S. Marshal	()	()	Jury Clerk
Probation	()		
U.S. Attorney	()		
Atty. for Deft.	()		
Defendant	()		
Warden	()		
Bureau of Prisons	()		
Ct Reporter	()		
Ctroom Deputy	()		
Orig-Security	()		
Federal Public Defender	()		
Summons Issued	()	with N/C attached to complt. and served by: U.S. Marshal () Pltf's Attorney ()	
Standard Order 93-5	()		
Order to Show Cause	()	with Petition attached & mailed certified mail to: US Atty Gen () PA Atty Gen () DA of County () Respondents ()	
Bankruptcy Court	()		
Other _____	()		

MARY E. D'ANDREA, Clerk

DATE: 8/3/01

BY: Km
Deputy Clerk